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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,113	09/27/2004	Kenichi Tanaka	HEIW-038	1254
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EXAMINER				
PASCUA, JES F				
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3782				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/509,113

**Applicant(s)**

TANAKA ET AL.

**Examiner**

Jes F. Pascua

**Art Unit**

3782

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 3/10/09
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,660,479 to May et al. and U.S. Patent No. 5,186,543 to Cochran.

May et al. discloses the claimed invention, especially the projected parts (40a, 40b) on the pair of tapes not being bonded to the inner face of the bag body. See column 6, lines 39-47. However, May et al. shows the projected parts protruding outwardly instead of both inwardly and outwardly. Cochran shows that projected parts (30, 32) protruding both inwardly and outwardly are an equivalent structure known in the art. See Figs. 9 and 12. Therefore, because these two projected parts were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to protrude the projected parts of May et al. both inwardly and outwardly. As a note, the flexible characteristics of the May et al. bag body would inherently permit projected parts to be "functionally accessible from the inner and outer face sides of the bag body" as claimed.

Regarding claim 7, May et al. and Cochran disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.3 mm or more and 2.0 or less. It would

have been an obvious matter of design choice to make the projected parts of modified May et al. bag with a maximum width of 0.3 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice.

Therefore, the Examiner's statement that it would have been an obvious matter of design choice to make the projected parts of modified May et al. bag with a maximum width of 0.3 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component is taken to be admitted prior art.

Regarding claim 8, May et al. and Cochran disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.5 mm or more and 2.0 or less. It would have been an obvious matter of design choice to make the projected parts of the modified May et al. bag with a maximum width of 0.5 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice. Therefore, the Examiner's statement that it would have been an obvious matter of design choice to make the projected parts of modified May et al. bag with a maximum

width of 0.5 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component is taken to be admitted prior art.

Regarding claim 9, May et al. and Cochran disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.3 mm or more and not more than a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of the modified May et al. bag with a maximum width of 0.3 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice. Therefore, the Examiner's statement that it would have been an obvious matter of design choice to make the projected parts of modified May et al. bag with a maximum width of 0.3 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component is taken to be admitted prior art.

Regarding claim 10, May et al. and Cochran disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.5 mm or more and not more than a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of the modified May et al. bag with a

maximum width of 0.5 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result.

Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice. Therefore, the Examiner's statement that it would have been an obvious matter of design choice to make the projected parts of modified May et al. bag with a maximum width of 0.5 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component is taken to be admitted prior art.

Regarding claim 11, May et al. and Cochran disclose the claimed invention, as discussed above, except for the shift of the projected part in a depth direction of the bag body being in the range of 1.0 mm to 2.0 mm. It would have been an obvious matter of design choice to shift of the projected part of the modified May et al. bag in a depth direction of the bag body being in the range of 1.0 mm to 2.0 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice. Therefore, the Examiner's statement that it would have been an obvious matter of design choice to shift of the projected part of the modified May et al. bag in a depth direction of the bag body being in the range of 1.0 mm to 2.0 mm, since such a

modification would have involved a mere change in the size of a component is taken to be admitted prior art.

Regarding claims 12 and 13, May et al. and Cochran disclose the claimed device, as discussed above, except for the shape of the projected part constituting a protruded line circular or angular. It would have been an obvious matter of design choice to make the projected parts of the modified May et al. bag circular or angular or of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Applicant's remarks, filed 12/16/2008, do not adequately traverse the Examiner's statement of obvious design choice. Therefore, the Examiner's statement that it would have been an obvious matter of design choice to make the projected parts of the modified May et al. bag circular or angular or of whatever form or shape was desired or expedient is taken to be admitted prior art

### ***Response to Arguments***

3. Applicant's arguments filed 12/16/2008 have been fully considered but they are not persuasive.

Applicant remarks that May et al. and Cochran do not teach or suggest projected parts protruding inwardly and outwardly because "While Cochran discloses projected parts on separate sides of a bag (Cochran at Fig. 12), Cochran states that such embodiment is not preferred (see Cochran at column 5, lines 10-15)." Applicant fails to fully represent the Cochran reference. Regarding Fig. 12, of Cochran discloses

projected parts (30, 32) protruding inwardly and outwardly on a tape (48) where a safety factor in protecting the male and female clamping parts (22, 24) is necessary. See column 6, lines 53-61.

Applicant remarks that May et al. and Cochran do not teach or suggest the projected parts being positioned inside the opening edge part of the bag body. Fig. 11 of May et al. clearly shows the projected parts (48a, 48c) positioned below the die lines (50, 62), which subsequently form the opening edge part of the bag body. Therefore, providing the May et al. bag with inwardly and outwardly protruding projected parts, as suggested by Cochran and discussed above, meets the claimed projected parts which (1) are positioned inside the opening edge part of the bag body and (2) protrude both inwardly and outwardly.

In response to applicant's argument that Cochran does not disclose each projected part protruding both inwardly and outwardly so that they are functionally accessible from the inner and outer face sides of the bag body, one cannot show nonobviousness by attacking the Cochran reference individually where the rejections are based on combinations of the May et al. and Cochran references. It is noted that Fig. 12 of Cochran depicts one of the inwardly and outwardly projected parts with the single reference numeral "30" and the other inwardly and outwardly projected parts with the single reference numeral "32". Applicant's claims do not structurally distinguish "each projected part" from each guide rail (30, 32) of Cochran.

Regarding applicant's remark that neither Cochran nor May et al. teach or suggest the projected parts being in different positions with respect to a depth of the



bag body. Fig. 11 of May et al. clearly shows the projected parts (48a, 48c) being in different positions with respect to a depth of the bag body from the projected parts (46a, 46c).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the

requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/

Primary Examiner, Art Unit 3782